

LABOUR DEPARTMENT

The 25th May, 1987

No. 9/1/87-6Lab/2899.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of (i) General Manager, Haryana Roadways, Yamuna Nagar, (ii) State Transport Commissioner, Haryana, Chandigarh :—

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Ref. No. 97 of 1985.

SHRI AMMI CHAND C/O SHRI RAJESHWAR NATH, 2655, TIMBER MARKET, AMBALA CANTT AND THE MANAGEMENT OF THE GENERAL MANAGER, HARYANA ROADWAYS, YAMUNANAGAR (II) STATE TRANSPORT COMMISSIONER HARYANA, CHANDIGARH.

Present.—

Workman with Shri Rajeshwar Nath.

Shri Rama Kant for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred disputes between Shri Ammi Chand workman and the G.M. Haryana Roadways, Yamuna Nagar etc. to this Court. The terms of the reference are as under:—

Whether termination of services of Shri Ammi Chand, workman, is just and correct; if not, to what relief is he entitled ?

Workman through his demand notice dated 28th October, 1984 alleged that he was appointed as a Driver by General Manager, Haryana Roadways, Ambala,—vide order dated 28th August, 1978. He joined on 29th September, 1978, thereafter he was transferred to Sub-Depot Yamunanagar and further he was transferred to Sub-Depot Naraingarh. He was plying bus HYA 2247 on route from Naraingarh to Chandigarh, on his way back from Chandigarh an accident occurred on 22nd May, 1980 near village Bagwali as a result of the accident the bus turned down. A chargesheet was served upon him which he replied, inquiry was conducted against him. He participated in the inquiry. He was not allowed to be represented by any co-workman nor he was allowed to seek assistance from any legal advisor. His services were terminated, thereafter he went in appeal to S.T.C. which was also rejected. On 17th July, 1984 feeling aggrieved from the order of termination dated 1st March, 1982 which is illegal and unjust. He served demand notice alleging that inquiry was partial. He was not given any opportunity to defend himself, defence evidence was not properly weighed and no due consideration was given to it. So the termination order be set-aside. He be reinstated with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that the bus turned down due to rash and negligent act of the workman. Inquiry Officer conducted inquiry in a most impartial manner. Workman cross-examined the witnesses, led defence evidence and was also given personal hearing before terminating his services. Respondent-management also quoted a few examples that in the past workman also caused accidents with his buses due to that fact the respondent-management has suffered a lot. So it was prayed that termination order is legal, it does not require any interference.

On the pleadings of the parties the following issues were framed :—

Issue No. 1 :

Whether termination order dated 1st March, 1982 regarding services of workman is illegal and unjust; if not, its effect ?

Issue No. 2 :

Relief.

I have heard Authorised Representatives of the parties and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under:—

Issue No. 1 :

Workman in support of his case examined himself as AW-1, he deposed that on 22nd May, 1980 when the bus reached near Bagwali, bridge was under construction all of sudden a buffaloe appeared in front of the bus when he gave turn to the bus towards Kacha the bus turned down. None of the passengers sustained, any injury of any kind. He had made clear this fact to the Inquiry Officer. He further stated that first of all Shri Shamsher Singh, Head Mechanic refused to oblige the management but under the threat of the management he had to give wrong report, in favour of respondent. Statement of Carpenter, Shri Ram Chander is also incorrect. He further stated that he examined one of the Sarpanch who was travelling in the bus but he was not believed.

Respondent-management examined RW-1 Shri Pritam Singh Clerk who brought the inquiry file. According to that charge-sheet was served to the workman by Shri V.K. Verma, General Manager, Haryana Roadways, Yamuna Nagar on 18th June, 1980. A list of allegations was also given to him. Copies of the same are Ex. M-1 to M-3. Reply of the workman is M-4. Reply of the workman was not found satisfactory. So Inquiry Officer Shri S.N. Subharwal was appointed—vide Ex-M-4. The Inquiry Officer submitted his inquiry report to General Manager which was given due weight by the General Manager and thereafter show-cause notice was issued to workman. Copy of the same is Ex-M-7 which was replied by the workman. Copy of reply is Ex M-8. Thereafter; workman was afforded an opportunity of being personally heard and then services of the workman were terminated,—vide Ex. M-9.

MW-2 is Inquiry Officer, Shri S.N. Sabharwal stated that he recorded statement of Shri M.S. Naib S.S. and Shri Ram Chander, Carpenter. Copies of their statements are Ex. M-13 and M-14. Statement of Shri Shamsher Singh Mechanic was also recorded. He stated that he did not complaint against Shri Shamsher Singh for non appearing before him as a witness. When a copy of letter Ex-A-1 was shown to him then he agreed that he complained against Shamsher Singh for avoiding taking part in the inquiry proceedings as a witnesses.

In view of the whole evidence I am of the considered view that it is admitted fact that Shri Ammi Chand driver caused an accident with his bus, in other words the bus turned down. As per the version given by the driver he was coming to Chandigarh, towards Naraingarh a bridge was under construction, fresh soil was lying of its side a buffaloe appeared all of sudden, to save that buffaloe when he gave a little turn to the bus towards Kacha the bus turned down. This version of the driver has been supported by Shri Jai Ram Sarpanch, resident of village Azampur, tehsil Naraingarh who was travelling in the bus which turned down. This witness appeared before the Inquiry Officer but his statement was not given any weight.

I have gone through the whole of the inquiry proceedings and of the considered view that the inquiry proceedings are in fact faulty because there was no Presenting Officer on behalf of the respondent before Inquiry Officer.

Secondly, the workman Driver Ammi Chand was not allowed to seek assistance from any co-workman or any legal advisor during the inquiry proceedings.

Statement of Shri M.S. Naib S.S. is a formal witness who simply forwarded report of Shri Shamsher Singh, Mechanic to General Manager, Yamuna Nagar. Shri Ram Singh, Carpenter submitted his report after examining the bus about the damages, the bus damaged being turned down. None of the above witnesses are eye-witnesses of the alleged occurrence. They have given formal evidence in this case.

The management has basically and mainly relied upon evidence of Shri Shamsher Singh, Mechanic. Admittedly Shri Shamsher Singh was not present at the time of alleged occurrence nor he is an eye-witness of the alleged accident. There are allegations of the workman against the Inquiry Officer that Shri Shamsher Singh was not going to give false statement, in other words he was not going to oblige the management by making false statement. So the statement which the Inquiry Officer prepared on behalf of Shamsher Singh was not signed by him. Due to this fact the Inquiry Officer complained against Shri Shamsher Singh to General Manager for not signing the statement. Shri Shamsher Singh was called, he signed the version which was desired by the respondent-management. Even if for the sake of arguments it is admitted that Shamsher Singh made statement before Inquiry Officer of his own. In those circumstances also his statement does not carry any value because he is neither an eye-witness nor he gave an hear say version after collecting the facts from any eye-witness of the occurrence. His report and statement is of an expert which cannot be believed and relied upon against the workman in view of the specific allegations of the workman against him.

The most important evidence for this case was of conductor of the bus but that witness was not examined the reason best known to the respondent-management which shows that a material evidence has been

withheld from the Inquiry Officer as well as from this Court and withholding of an material witness from the Court an adverse inference has to be drawn against the respondent management under section 114(G) of Indian Evidence Act, 1872.

The Inquiry Officer has miserably failed to appreciate the defence version taken by the workman. Nor he has given any due weight and credit to the statement of defence witness Shri Jai Ram Sarpanch of village Azampur.

In view of my above discussion I am of the considered opinion that since Shri S.N. Sabharwal acted as a prosecutor as well as Inquiry Officer. He did not allow the workman to seek assistance from his co-workman and any legal advisor, statement of Shri Shamsher Singh, Mechanic has been written against his wishes in suspicious situation. Defence version was not given due weight. Conductor of the bus was the best and material witness who was not examined reasons best to known to respondent management. So termination order passed by General Manager on this faulty inquiry report of Shri S.N. Sabharwal, Inquiry Officer; is bad in law, in other words it is illegal, unjustified and cannot be sustained, so this issue is decided, in favour of workman against the management.

Issue No. 2.

For the foregoing reasons on the basis of my findings on issue No. 1 I pass an order for reinstatement of workman Shri Ammi Chand with the relief of continuity in service and with full back wages. I pass award regarding the dispute between the parties accordingly.

Dated the 9th March, 1987.

V.P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endst. No. 539, dated 10th March, 1987.

Forwarded (Four copies) to the Financial Commissioner & Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V.P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

KULWANT SINGH,

Secretary to Government, Haryana.
Labour and Employment Department.

IRRIGATION DEPARTMENT

The 25th June, 1987

No. 6202/98-L.—Whereas it appears to the Governor of Haryana that the land specified below is needed by the Government, at the public expense, namely, for the construction of Kishanpur Minor from kilometre 0.000 to 3.900 (Tail) off-taking at kilometre 2.701/1/2 of Tankri distributory in village Nagal Teju, Nagal Ugra, Ransi Majri, Prampur and Kishanpur of tehsil Bawal, district Mahendragarh. It is hereby notified that the Land in the Locality described below is required for the above purpose.

This notification is made under the provision of section 4 of the Land Acquisition Act, 1894, for information of all whom it may be concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana hereby authorises the officer, of the Irrigation Branch with their servants and workmen for the time being engaged in the undertaking to enter upon and survey that land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of any land in the locality may, within a period of thirty days of the publication of this notification, file an objection in writing before the Land Acquisition Collector, Irrigation Department, Rohtak.

Plans of the land may be inspected in the offices of the Land Acquisition Collector, Irrigation Department, Rohtak and Executive Engineer, Pandit Jawahar Lal Nehru Canal Division No. 3, Rewari.

SPECIFICATIONS

District	Tehsil	Village	Area in Acres/Hectares	Had-bast No.	Rect-angle No.	Direction/Killa No.
A strip of land measuring 3900 metres in length and varying in widths comprising of full /parts killa numbers as below:—						
Mahendra-garh	Bawal	Nangal Teju and Nangal Ugra	6.621	29 and 30	122	1, 10/2, 11/1, 20 and 21.
			2.680			
					132	1, 10, 11/1, 11/2, 20, 21 and path number 234.
					143	5, 4, 3, 2 and 1.
					144	5, 4, 3, 2/1, 2/2 and 1 path number 236.
					145	5, 4/1, 4/2, 4/3, 3/2, 8, 7/1, 7/2, 13, 14, 17 and 18 and path number 932.
					123	5, 6, 15, 16 and 25.
					131	5, 6, 15, 16, 25, 24/1, 24/2, 23, 22, 21 and path number 235.
					130	25, 24, 23, 22/1, 22/2 and 21.
					129	25, 24.
Mahendra-garh	Bawal	Ransi Majri	3.762	27	2	17, 18, 23 and 24.
			1.523			
					9	3/2, 4, 8/1, 7, 14/1, 14/2, 13/2, 17, 18, 24/1, 24/2, 23/1 and 23/3 path number 37.
					12	3/2, 4, 7, 8, 13, 14, 18/1, 18/2, 17, 23, 24 and path number 35.
					21	3/1, 3/2, 4, 8, 7, 13, 14, 18, 17, 23, 24 and path number 143 and 144.
Mahendra-garh	Bawal	Pran-pura	3.747	61	22	4 and 3.
			1.517		8	3, 4, 8, 7, 13, 14/1, 14/2, 18/2, 18/1, 17, 23 and 24.
					12	3, 4/1, 4/2, 8, 7, 13, 14/1, 14/2, 18, 17, 23, 24/1, 24/2 and path number 95 and 520.
					28	3, 4, 8, 7/2, 13, 14, 18, 17, 23, 24 and path number 100 and 97.
					32	3, 4/1, 8, 7, 13/1, 13/2, 14, 18 and 17.

District	Tehsil	Village	Area in Acres/Hectares	Had-bast Number	Rectangle Number	Direction/Killa Number
Mahendragarh	Bawal	Kishanpur	0.499 0.202	63	2 5	17, 18, 23 and 24. 3, 4, 7 and 8 and generally lying in the direction of North to South from Kilometre 0.000 to 0.604 kilometre and then East to West Kilometre 0.604 to 1.408 Kilometre and then North to South 1.408 to 3.900 Kilometre (tail) as shown on the Index Plan and demarcated at site.
			14.629			
			Total : 5.922			

By Order of Governor of Haryana.

B. R. DUA,

Superintending Engineer,

Pandit Jawahar Lal Nehru Canal Circle No. I,
Rohtak.

IRRIGATION DEPARTMENT

The 26th June, 1987

No. 336/126-L (Drg.).—Whereas it appears to the Governor of Haryana that land specified below is needed by the Government, at the public expense, namely, for Excavating ditch drain along right side of J. L. N. Feeder from R. D. 255400 to R. D. 274350 in villages Dubaldhan Kirmian, Palra, Paharipur, Achheej and Tamaspora of tehsil Jhajjar district Rohtak, it is hereby notified that land in the locality described below is required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, for information of all to whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana hereby authorises the Officers of the Irrigation Department with their servants and workmen, for the time being engaged in the under-taking to enter upon and survey the land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of any land in the locality may, within a period of thirty days of the publication of this notification, file objections in writing before the District Revenue Officer-cum-Land Acquisition Collector, Rohtak.

Plans of the land may be inspected in the offices of the District Revenue Officer-cum-Land Acquisition Officer, Rohtak and Executive Engineer, Jhajjar Drainage Division, Jhajjar.

SPECIFICATION

District	Tehsil	Village	Hadbast No.	Area in acres	Rect. No.	Direction/Killa Nos.
						A strip of land measuring 189.50 ft. in length and varying in width lying generally in the direction North-East to East-South
Rohtak	Jhajjar	Dubaldhan Kirmian	136	0.54	112 145	1, 10, 11, 20, 2, 12, 22/1, 22/2, 2, 9, 10, G. M. 932, 971, 260, 964

District	Tehsil	Village	Hidbast No.	Area in acres	Rect. No.	Direction/Killa Nos.
Rohtak	Jhajjar	Palra	120	10.84	18	3, 8, 9, 12, 13, 18, 19, 22, 23
					20	2/1, 2/2, 3, 8/1, 8/2, 13/1, 13/2, 18/1, 18/2, 23, 24 G. M., 164, 199
					33	7/1, 7/2, 3, 4, 8, 13, 14, 17, 18, 24/1, 24/2
					37	4, 6, 7, 14, 15, 16, 17, 24, 25
					50	4, 5, 6, 7, 14, 17, 18, 24/1, 22, 23
					54	15, 16, 17, 25, 24/1, 24/2
					55	2/1, 2/2, 3, 9, 10, 11/1, 11/2, 20
					67	3, 4, 7, 8, 9, 12, 13/1, 13/2, 18, 19 G. M., 183
Do	Do	Paharipur	137	12.02	7	11, 12, 19, 20, 21, 22, 9
					8	25
					19	4, 5, 6, 7, 13, 14, 17, 18, 22, 23
					20	1, 2
					23	1, 2, 3, 9, 10, 11, 20
					24	16, 25, 15, 17, 24
					36	3, 4, 8, 12/1, 13, 9/1, 9/2, 12/2, 12/1, 20, 19/1, 19/2, 21
					38	1, 10
					39	5/1, 5/2, 6/1, 6/2, 6/3, 7/1, 7/2, 13, 14, 15, 17, 18/1, 18/2, 18/1/2, 19, 22, 23
					50	16/1, 25, 17, 24, 16/2, 6, 23, 15
					51	1, 2, 9, 10, 11
					54	3, 4, 7, 8, 9, 12/1, 12/2, 13/1, 13/2, 19, 20, 21
Do	Do	Achhej	119	5.04	55	16, 25 G. M., 341, 342
					32	19, 18, 21, 22/1, 22/2, 23
					35	25
					36	1, 10, 11, 20/1, 20/2, 2/1, 2/2, 9
					48	5, 6 G. M. 146, 145, 147, 148, 149, 79, 234, 235, 236
					52	3, 4, 7/2, 8, 13, 19, 20, 21/1, 21/2, 22/2, 22/1, 23/1, 23/2, G. M. 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 232, 231, 233

District	Tehsil	Village	Hadbast No.	Area in acres	Rect No.	Direction/Killa Nos.
Rohtak	Jhajjar	Aehhej— <i>concl'd</i>	119— <i>concl'd</i>	5.04— <i>concl'd</i>	63	1/1, 1/2, 10, 11, 20, 21/1, 21/2
					64	5, 6, 15/1, 15/2, 16, 25
Do	Do	Tamaspura	116	0.03	47	25/1, 25/2, G. M. 67, 134
					50	5/2, 5/1, 6/2, 15/1, 14, 17, 16/2, 24/1, 23, 7, 4/2.
Total				28.48	As shown on the Index plan and demarcated at site.	

By Order of the Governor of Haryana.

O. P. GUPTA,

Superintending Engineer,
Drainage Circle, Rohtak.

PUBLIC WORKS DEPARTMENT

BUILDINGS AND ROADS BRANCH

HISAR CIRCLE

The 26th June, 1987

No. 28HA/63-F/1910.—Whereas the Governor of Haryana is satisfied that land specified below is needed by the Government, at public expense, for a public purpose, namely, constructing link road from Khan Mohmand Nakta to Dhani Ishar, tehsil Fatehabad, district Hisar, it is hereby declared that the land described in the specification below, is required for the aforesaid purposes.

This declaration is made under the provisions of section 6 of Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7 of the said Act, the Land Acquisition Collector, Haryana P. W. D., B.&R. Branch, Bhiwani or District Revenue Officer-cum-Land Acquisition Collector, Hisar, is hereby directed to take orders for the acquisition of the said land.

Plans of land may be inspected in the offices of the Land Acquisition Collector, Haryana, P.W.D., B. & R. Branch, Bhiwani or District Revenue Officer-cum-Land Acquisition Collector, Hisar, or Executive Engineer, Provincial Division, P.W.D., B. & R. Branch, Fatehabad.

SPECIFICATION

District	Tehsil	Locality/ Village and Hadbast No.	Area in Acres	Rectangle/Khasra No.
Hisar	Fatehabad	Hizrawan Kalan	3.48	532, 533, 575, 576, 590, 600, 601, 602, 603, 662, 752, 753, 756, 543, 831/10, 838/8, 8 to 18, 65 to 72, 37, 38, 144, 856
		41		149, 148, 147
		(Dhani Ishar) Majra		21, 21 to 25, 24/1, 24/2, 25
		RD 0 to 3788 = 3788 × 40 = 3.48		
		9 × 4840		

District	Tehsil	Locality/ Village and Hadbast No.	Area in Acres	Rectangle/Khasra No.
Hissar	Fatehabad	Hizrawan Kalan 41— <i>concl'd</i>	3.48— <i>concl'd</i>	<div>156</div> <hr/> <div>1, 2, 3, 4/1, 4/2, 5/1, 5/2, 6, 7 to 10</div> <div>155</div> <hr/> <div>1</div> <div>6/1, 6/2, 7, 13, 14/1, 14/2,</div> <div>158</div> <hr/> <div>15/1, 15/2</div> <div>5, 6/1, 6/2, 7/1, 7/2,</div> <div>157</div> <hr/> <div>8, 9, 10, 11, 12, 13/1, 13/2, 14</div>
Total			3.48	

The 27th June, 1987

No. 28HA/63-H/1911.—Whereas the Governor of Haryana is satisfied that land specified below is needed by the Government, at public expense, for a public purpose, namely, constructing Agroha Jhansal road, KM. 13.40 to village Adampur, tehsil Hisar, district Hisar, it is, hereby declared that the land described in the specification below is required for the aforesaid purposes.

This declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7 of the said Act, the Land Acquisition Collector, Haryana P.W.D., B. & R. Branch, Bhiwani, or District Revenue Officer-cum-Land Acquisition Collector, Hisar is hereby directed to take orders for the acquisition of the said land.

Plans of the land may be inspected in the offices of the Land Acquisition Collector, Haryana P.W.D., B. & R. Branch, Bhiwani or District Revenue Officer-cum-Land Acquisition Collector, Hisar or Executive Engineer, Provincial Division P.W.D., B. & R. Branch, Hisar.

SPECIFICATION

District	Tehsil	Locality/Village Hadbast No.	Area in Acres	Rectangle Khasra No.
Hisar	Hisar	Adampur H. B. 34	3.01	<div>39 40</div> <hr/> <div>21 25</div> <div>54</div> <hr/> <div>5, 6, 15, 16</div> <div>77</div> <hr/> <div>1/2</div> <div>55</div> <hr/> <div>1, 10, 11, 20/1, 20/2, 21</div> <div>60</div> <hr/> <div>1, 10, 11, 20, 21</div> <div>72</div> <hr/> <div>1, 10, 11, 20, 21</div>
Khasra Nos. 243, 248, 249, 262, 354, 355, 363, 373, 374, 384, 385, 386, 396 to 400, 685, 661, 362				